

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<div>IN RE:</div> <div>ROBERT L. BOWERS, JR.,</div> <div>Complainant,</div> <div>v.</div> <div>MCLEODUSA TELECOMMUNICATIONS SERVICES, INC., AND QWEST CORPORATION,</div> <div>Respondent.</div>	<div>DOCKET NO. C-01-125</div>
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ORDER DENYING REQUEST FOR FORMAL COMPLAINT PROCEEDING

(Issued June 28, 2001)

On March 12, 2001, Robert L. Bowers, Jr., filed with the Utilities Board (Board) a written complaint against McLeodUSA Telecommunications Services, Inc. (McLeodUSA), and Qwest Corporation (Qwest) regarding a delay in switching his local telephone service from McLeodUSA to Qwest. Mr. Bowers indicated that he had contacted McLeodUSA in October 2000 to switch his service and the McLeodUSA representative told him he would have to make arrangements with his choice of carriers. Mr. Bowers indicated that he then contacted a long distance carrier and Qwest. Mr. Bowers states that he assumed that McLeodUSA would make the transfer and when it did not occur, he again contacted McLeodUSA. Mr.

Bowers states that he talked with McLeodUSA representatives eight times about the switch and made a total of approximately 50 calls to all three companies.

Mr. Bowers states that his long distance carrier finally told him that McLeodUSA would need a written request.

By letter dated March 13, 2001, McLeodUSA and Qwest were notified of the complaint. Qwest filed a response on March 26, 2001. In the response, Qwest states that its records show that it was contacted by Mr. Bowers on February 13, 2001, and Mr. Bowers placed an order to switch carriers on that date. Qwest states that it sent notification of the transfer to McLeodUSA to be effective on March 14, 2001. Qwest states that the order was completed and Mr. Bowers was switched back to Qwest on March 14, 2001. Qwest states that it could not find a record of any communication with Mr. Bowers before the February 13, 2001, call.

On March 26, 2001, McLeodUSA filed its response. McLeodUSA states that its records show that Mr. Bowers first contacted McLeodUSA on December 15, 2000. McLeodUSA then states that its records do not reflect that the customer representative told Mr. Bowers to contact Qwest or to call McLeodUSA with the date of the transfer so that billing would be stopped. McLeodUSA states further that it apologizes for the customer service representative's failure to properly educate Mr. Bowers on the requirements for transferring service.

McLeodUSA states that it was notified of the switch on March 8, 2001, by Qwest and that the transfer was completed on March 13, 2001. McLeodUSA states that switching local exchange carriers is an internal process handled entirely by

Qwest and required no action on McLeodUSA's part. In addition, McLeodUSA states that it does not require a written authorization, since Iowa is a "winback" state and a customer needs only to contact the new carrier to switch from McLeodUSA.

Mr. Bowers responded to the information provided by McLeodUSA and Qwest. Mr. Bowers indicated that his records show that he made the initial contact with McLeodUSA in October 2000 and made several contacts with Qwest in the same month all to no avail. Mr. Bowers gives a detailed account of his calls and the responses from October 2000 until his service was switched in March 2001.

On April 11, 2001, Qwest filed an additional response to Mr. Bowers. In this letter Qwest states that the customer service representative should have made a record of the first contact by Mr. Bowers and that proper records were not kept when Mr. Bowers called the "Winback Center" in Seattle, Washington. Qwest then states that it was unable obtain any additional information or insight into what occurred when Mr. Bowers called, since no records were kept, and Qwest apologized for any inconvenience this failure may have caused.

In accordance with 199 IAC 6.4, Board staff notified Mr. Bowers by letter dated May 3, 2001, of its proposed resolution of the complaint. Staff indicates in the letter that both McLeodUSA and Qwest had apologized for the failure to keep proper records of the first calls by Mr. Bowers. Staff indicates that Mr. Bowers was not without telephone service throughout this period. Staff then indicates that the Board cannot award damages and no other action is necessary to resolve the complaint. Mr. Bowers requested a formal proceeding by letter postmarked May 15, 2001.

Iowa Code § 476.3(1) (2001) provides, in part, that following informal complaint proceedings, "[t]he complainant or the public utility also may petition the board to initiate a formal proceeding which petition shall be granted if the board determines that there is any reasonable ground for investigating the complaint." This is the standard the Board applies to requests for formal complaint proceedings.

Board rules establish that all documents contained in the file of an informal complaint proceeding are part of the record. 199 IAC 6.7. Thus, in determining whether there is any reasonable ground for instituting formal complaint proceedings, the Board reviews the entire file.

The Board has reviewed the file and finds that McLeodUSA and Qwest have admitted in their responses to the informal complaint that neither of the companies' personnel handling Mr. Bowers calls kept sufficient records for Mr. Bowers to follow-up on his initial request to transfer his local telephone service. Assuming Mr. Bowers records of his calls are accurate, neither company was able to handle his request efficiently or in a manner expected by their customers. Both companies have apologized for their deficient procedures. Both companies have indicated they have investigated the problem. The Board expects this will be translated into more customer focused and efficient procedures in the future.

For the Board to conduct a formal complaint proceeding, the Board believes that there should be some factual dispute or an available remedy that the respondent company is unwilling to offer. In this instance both companies have admitted the problems with the transfer of Mr. Bowers from McLeodUSA to Qwest. Even though

the companies failed to handle the transfer quickly and efficiently, Mr. Bowers was not without telephone service. The Board believes that a formal complaint proceeding would only result in a recitation of information already in the file, and since there is no additional remedy available, the Board finds that a formal proceeding is not warranted.

IT IS THEREFORE ORDERED:

The request for formal complaint proceedings filed by Robert L. Bowers, Jr., on May 15, 2001, is denied.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 28th day of June, 2001.